

cause why refunding should not be denied under applicable legal standards.

(e) The recipient may serve a request on the hearing examiner that the Corporation be required, upon sufficient notice, to produce a specific document or documents in the possession, custody, or control of the Corporation or of another organization identified under § 1625.4(a)(2) or produce a person in its employ (or that of such other organization) to testify in a pre-hearing deposition at a date, place, and time to be specified in the requirement or to be available to testify at the show cause hearing.

§ 1625.6 Hearing examiner.

(a) The hearing examiner shall be appointed by the President, and shall be a person who is familiar with legal services and supportive of the purposes of the Act, who is independent, and who is not an employee of the Corporation.

(b) Within 5 days of receipt of notice of the name of the hearing examiner, the recipient may file a written notice that it objects to the hearing examiner on the basis that this person does not fit the criteria of paragraph (a) of this section or has made statements or taken actions indicating personal bias against the recipient. The recipient will be granted a 5-day extension for presenting the basis of its objection if it files a timely notice of objection and a statement as to why it is unable with due diligence to present the basis of its objection without the extension.

(c) The President shall consider the recipient's objection(s) with any supporting documentation and, within 10 days thereafter, issue a written notice of a decision either to retain or replace the hearing examiner.

(d) No objection to the appointment of a hearing examiner may be made unless presented in the manner specified in this section.

§ 1625.7 Pre-hearing procedures.

(a)(1) On or before the date it requests a hearing, the recipient may serve a motion for an interim decision that the notice fails to state an adequate basis for the denial of its application for refunding. The hearing examiner shall rule on such motion within 7

days and shall grant the motion if he or she finds that the facts sworn to in the notice do not provide an adequate basis to deny the application for refunding.

(2) If the recipient fails to make a request for hearing in such a timely fashion that it is received by the Corporation within 30 days of receipt of the notice by the recipient, the recipient shall be deemed to have waived its right to a hearing and a final decision shall be entered by the President.

(3) If the recipient makes timely request for a hearing, the hearing examiner may, *sua sponte* or on the motion of a party, review the notice, the request for a hearing, and all documents submitted by the recipient pursuant to requirement(s) issued pursuant to § 1625.4(f) to determine before the date set for the hearing whether there is any genuine issue as to any material fact and whether a party is entitled to summary judgment or partial summary judgment as a matter of law. If, considering the papers in the light most favorable to the opposing party, the hearing examiner finds that the parties' submissions, admissions on file, affidavits, and any other matter on the record show that there is no genuine issues as to any material fact and that either party is entitled to summary judgment as a matter of law, the hearing examiner shall issue to the President a written initial decision pursuant to § 1625.10(b). If such a decision with a partial summary judgment should become final pursuant to § 1625.11, the hearing examiner may exclude further evidence relevant only to an issue or issues resolved by such decision.

(b) If the recipient makes a timely request for a hearing, a pre-hearing conference shall be held within 7 days. At least 24 hours prior to the pre-hearing conference, each party shall cause to be delivered in person to the hearing examiner and counsel for the opposing party a list including all its affiants it intends to call for direct testimony, all the other party's affiants it will require the party to produce for cross-examination, and all other persons who are to testify on direct or cross-examination. For each person on its list, the party will indicate whether the person